



U.S. Serial No. 09/113,747

Docket No. 112592A

#18
W. Lawler
11/19/03
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS : ANDREA BASSO et al.

SERIAL NO. : 09/113,747

FILED : 07/10/1998

FOR : INTERACTIVE MODALITIES FOR MULTIMEDIA
DELIVERY AND PRESENTATION

GROUP ART UNIT : 2611

EXAMINER : K. Bui

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MAIL STOP: Appeal Brief
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APPEAL BRIEF

SIR:

This is an Appeal from an Office Action dated 02/27/2003, finally rejecting each of the pending claims 1 - 53. The Notice of Appeal was filed on June 5, 2003. (A first Notice of Appeal was filed May 28, 2003, one day following its due date of May 27, 2003. To remedy the situation, Applicants filed the Notice of Appeal again June 5, 2003 with a Petition for a one month extension of time). The period to file this Appeal Brief expires on November 5, 2003.

1. REAL PARTY IN INTEREST

The real party in interest in this matter is AT&T Corp.

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10/30/2003 AWONDAF1 00000074 09113747

02 FC:1403 290.00 DA



IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

Applicant(s): Andrea Basso et al.
Attorney Docket No.: 112592A
Application No.: 09/113,747
Filing Date: 07/10/1998
Examiner Name: K. Bui
Group Art Unit: 2611
Title: Interaction Modalities For Multimedia Delivery And Presentation

COMMISSIONER FOR PATENTS
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PETITION FOR EXTENSION OF TIME

Applicant(s) petition(s) the Commissioner for Patents to extend the time for filing an Appeal Brief following the filing of the Notice of Appeal on 05/28/2003 from 07/28/2003 to 10/28/2003, for

<input type="checkbox"/>	1 month	\$110.00
<input type="checkbox"/>	2 months	\$420.00
<input checked="" type="checkbox"/>	3 months	\$950.00
<input type="checkbox"/>	4 months	\$1,480.00
<input type="checkbox"/>	5 months	\$2,010.00

The Commissioner for Patents is authorized to charge **AT&T Corp. Deposit Account No. 01-2745** in the amount of \$950.00 to cover the cost of the extension. Any deficiency or overpayment should be charged or credited to **Account No. 01-2745**. A duplicate copy of this Petition is enclosed.

Date: 10/24/03

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2. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

3. STATUS OF THE CLAIMS

Claims 1-53 are pending in this application. (See the Appendix).

Independent claims 1, 14, 27, 36 and 46 stand rejected under 35 U.S.C. §102(e) as unpatentable over U.S. Patent No. 5,928,330 to Goetz et al. ("Goetz et al."). Dependent claims 3 - 4, 6 - 7, 10 - 13, 15 - 17, 19 - 20, 23 - 26, 28 - 30, 33 - 35, 37 - 39, 42 - 44, 47 - 48 and 51 - 53 also stand rejected under 35 U.S.C. §102(e) as unpatentable over Goetz et al. Claims 5 and 18 stand rejected over Goetz et al. in view of U.S. Patent No. 5,014,125 to Pocock et al. ("Pocock et al."). Claims 8 - 9, 21 - 22, 31 - 32, 40 - 41 and 49 - 50 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Goetz et al. in view of U.S. Patent No. 5,673,401 to Volk et al. ("Volk et al.").

This appeal is an appeal from the rejection of all the claims.

4. STATUS OF AMENDMENTS

All claim amendments to date have been entered.

5. SUMMARY OF THE INVENTION

The present invention relates to transferring information over a network. Given the large usage of network traffic, the present invention improves data flow over a network based on user preferences. The invention may be understood in a broad way by discussing method

claim 14. This claim recites a method of transmitting data from a sender to a receiver across a network. The method comprises displaying, at a receiver, received data; analyzing the quality of the displayed data; formulating a media-parameter suggestion for the encoder to alter the characteristics of data to be sent to the receiver; and sending from the receiver the formulated suggestion to alter the quality of the received data. The steps occur at the receiver and provide a way for the receiver used by a user to provide information to a transmission apparatus to vary the quality of data sent.

6. ISSUES

(1) Whether independent claims 1, 14, 27, 36 and 46 patentably distinguish over Goetz et al.

(2) Whether dependent claims 3 - 4, 6 - 7, 10 - 13, 15 - 17, 19 - 20, 23 - 26, 28 - 30, 33 - 35, 37 - 39, 42 - 44, 47 - 48 and 51 - 53 patentably distinguish over Goetz et al.

(3) Whether claims 5 and 18 patentably distinguish over Goetz et al. in view of Pocock et al.

(4) Whether claims 8 - 9, 21 - 22, 31 - 32, 40 - 41 and 49 - 50 patentably distinguish over Goetz et al. in view of Volk et al.

7. GROUPING OF CLAIMS

The claims may be grouped as follows.

1. Claims 1 to 13 are directed to a computer-readable medium storing instructions adapted to be executed on a processor.

2. Claims 14 to 35 are directed to a method of transmitting data from a sender to a receiver across a network.
3. Claims 36 to 53 are directed to an apparatus for transmitting data from a sender to a receiver across a network.

A separate basis for patentability exists for each group of claims. However, except to the extent otherwise indicated below, the respective groups of claims do not stand or fall together for purposes of this appeal.

8. ARGUMENT

A. Claims 1-4, 6-7, 10-17, 19-20, 23-30, 33-39, 42-48, and 51-53 Are Patentable Over Goetz et al.

The Examiner rejects claims 1-4, 6-7, 10-17, 19-20, 23-30, 33-39, 42-48, and 51-53 Under Section 102(b) as being anticipated by U.S. Patent No. 5,928,330 to Goetz et al. (“Goetz et al.”). Appellants respectfully submit that the Examiner is mis-interpreting the technology disclosed by Goetz et al. to reject the claims.

Claim 1

Claim 1 recites a computer-readable medium storing instructions adapted to be executed on a processor to display, at a receiver, received data; analyze, at the receiver, the quality of the displayed data; formulate, at the receiver and based on the analysis, a media-parameter suggestion for an encoder to alter the characteristics of data to be sent to the receiver; and send, from the receiver, the formulated suggestion.

The Examiner asserts that Goetz et al. teaches the step of analyzing at the receiver the quality of the displayed data by disclosing that the client can alter the characteristics of the

data to be sent to the client by suggesting the desired rate of transmission between the user device and the service. Col. 11, lines 27 - 48. Column 11 of Goetz et al. teaches the following:

In step 1120, the multimedia client application 1020 sends a message to the multimedia server application 1040 specifying a desired rate of transmission. The desired rate of transmission may be determined by the client, for example, by determining the communication rate of an attached communication device such as a modem (more below). The interaction then proceeds to step 1130 where the multimedia client application 1020 sends a “go” message to the server application 1040, informing the multimedia server application that the initial client messages have been sent, and therefore allowing the server to determine whether or not all messages were received.

The Examiner responds to Appellant’s arguments that Goetz et al. teach the limitations of analyzing, formulating and sending the formulated suggestion by reasserting that this and other portions of Goetz et al. teach the limitations of claim 1. As can be seen from the above quote, Goetz et al. do not teach the claim limitations as asserted by the Examiner in several respects. First, Goetz et al. teach that the client determines the rate of transmission not by analyzing the quality of the displayed data but rather by analyzing hardware characteristics associated with the client, the example given being the modem capability. Appellants submit that determining the speed of a communications device certainly differs from analyzing the quality of displayed data. The Examiner gets around the lack of disclosure in Goetz et al. by mischaracterizing the claim limitations in his response to Appellant’s argument on page 8 of the Final Office Action. The Examiner states:

Goetz does disclose an exact same technique as Goetz’s invention [including] a system and device for, and method of, presenting multimedia information to a client from a server, and either server or client side can gather information data and analyze, and the characteristics of data can be altered at the receiver or at the client, i.e, the streaming rate of information data, which represents the quality of displayed or presented data that the client or receiver.

Notably, the Examiner simply states that the client side gathers information and performs “analysis.” Claim 1 is narrower than the Examiner’s characterization of a general analysis. The claim requires an analysis of the quality of the displayed data. The Examiner would be correct if the claim were broad enough to cover a generic analysis, which would encompass a hardware capability analysis. However, the Examiner must not read out important claim limitations when comparing the claim language to the prior art’s disclosure. To support the rejection, the Examiner cites col. 3, lines 13 - 30; col. 4, lines 34 - 55; col. 8, lines 40 - 50; col. 11, lines 27 - 48; col. 12, lines 4 - 26; and col. 13, lines 49 - 67. Appellants will discuss the substance of each of these portions of Goetz et al.

Col. 3, lines 13 - 30

This portion of Goetz et al discloses only “inferring network conditions from the characterized performance.” In this regard, after inferring the network condition, the server can then stream multimedia information to the client in view of the inferred network conditions. This inference method differs from the claimed step of specifically analyzing the quality of received data and formulating a media-parameter suggestion based on that analysis. The claimed limitation requires a direct analysis of data that is displayed, whereas col. 3, lines 13 - 30 only discloses a nebulous “mechanism” for inferring network conditions.

Col. 4, lines 34 - 55

This portion of Goetz et al. discloses that an application may choose a particular instance of a data stream based on the network’s characteristics, such as choosing an audio stream that is encoded for a transmission rate that matches the network’s characteristics. The example given is selecting between different audio streams in English or French. This again differs from the present invention in that it simply fails to disclose analyzing the quality of

displayed data. Column 4 of Goetz et al. again focuses on network characteristics, rather than an analysis of the quality of displayed data.

Col. 8, lines 40 - 50

This portion of Goetz et al. teaches utilizing pre-assigned important information (col. 8, lines 32-33) and dropping packets or sending multiple copies of packets if beneficial to adapt the streaming. Contrary to the Examiner's position, column 8 of Goetz et al. fails to teach analyzing the quality of displayed data and using that analysis, formulating a media-parameter. The information used to adapt the multi-media streaming in column 8 is pre-assigned information that it associated with each packet. This clearly differs from the present invention.

Col. 11, lines 27 - 48

This portion is quoted above and already discussed. Column 11 focuses on the client utilizing information about the communication devices like a modem to make a communication rate determination.

Col. 12, lines 4 - 26

This portion of Goetz et al. teaches the following:

This step includes determining whether all of the packets for the requested presentation have already been streamed, whether an error has occurred, whether insufficient bandwidth exists to make continued presentation impractical, whether the user has requested the presentation to stop, whether the user has disconnected from the server, and the like. If streaming is to stop, the logic proceeds to step 1299, which ends the flow. If streaming is to continue, the logic streams a time-slice's worth of packets in step 1220....

Column 12 of Goetz et al. focuses on detecting lost packets and making streaming decisions based on packet loss. There is simply no mention of analyzing the quality of the displayed data and formulating at the receiver a media-parameter suggestion to alter the

characteristics of the data to be sent. Goetz et al. here only discusses packet loss issues and does not relate to analyzing the quality of the received data or altering the characteristics of the data to be streamed.

Col. 13, lines 49 - 67

This portion discloses the client gathering and analyzing statistics and sending inferences to the server as control packets. The client either sends the control packets to the server or sends the statistics to the server for an analysis. The statistics include bit rate throughput, network jitter, round-trip delay and percentage of distribution of packet loss. None of these network-related statistics are the quality of the displayed data but represent different network-based parameters. The Examiner seems to accept the difference between the statistics and the claim limitations when he states that “the streaming rate of information data, which represents the quality of displayed or presented data at the client or receiver...” Page 8, Final Office Action (emphasis added). While the statistics gathered as disclosed by Goetz et al. may relate to the displayed data, there is a difference between analysis of streaming information data and analysis of displayed data. The Examiner later inappropriately states that column 13 teaches that “the user can perform the analysis on the statistics of the quality of received data” Page 8, Final Office Action. However, these are statistics “gathered on the network” and not the quality of the data itself. (Col. 13, lines 43-44).

In sum, Goetz et al. discuss several aspects of how to manipulate streaming data, data rates, packet loss, etc. However, they accomplish their manipulation via network statistics and other means that differ from the limitations recited in claim 1. They teach different approaches to client feedback than the invention of claim 1. Accordingly, Appellants submit

that the rejection of claim 1 should be reversed and remanded to the Examiner with instructions to allow this claim.

Claims 2-4, 6-7, 10-17, 19-20, 23-30, 33-39, 42-48 and 51-53

Claims 2-4, 6-7 and 10 - 13 each depend from claim 1 and recite further limitations therefrom. Accordingly, Appellants submit that these claims are patentable as well inasmuch as their parent claim is patentable.

Claim 14 recites a method of transmitting data from a sender to a receiver that includes the step of analyzing at the receiver the quality of displayed data. Appellants apply the above arguments to claim 14 and submit that Goetz et al. fail to teach each limitation of this claim. Therefore, claim 14 and dependent claims 15 - 17, 19 - 20 and 23 - 26 are patentable as well.

Claim 27 recites a method for transmitting data across a network. The method comprises receiving a suggestion to alter future transmitted data on the basis of a quality of data previously transmitted. The arguments set forth above relative to claim 1 apply to the limitations of claim 27 as well. Accordingly, Appellants submit that claim 27 and its dependent claims 28 - 30 and 33 - 35 are patentable and in condition for allowance.

Claim 36 recites an apparatus for transmitting data that includes a memory that stores instructions to display received data and analyze, at the receiver, the quality of displayed data. Accordingly, the above arguments relative to claim 1 apply to claim 36 and dependent claims 37 - 39 and 42 - 45.

Claim 46 recites an apparatus for transmitting data that includes memory storing instructions to receive a suggestion to alter future transmitted data on the basis of a quality of data previously transmitted. As discussed above, Goetz et al. fail to teach this limitation.

Accordingly, claim 46 and dependent claims 47 - 48 and 51 - 53 are each patentable and in condition for allowance.

B. Claims 5 and 18 Are Patentable Over Goetz et al. in view of Pocock et al.

The Examiner rejected claims 5 and 18 under Section 103(a) over Goetz et al. in view of U.S. Patent No. 5,014,125 to Pocock et al. ("Pocock et a."). The Examiner concedes that Goetz et al. fails to teach the detailed components recited in claims 5 and 18, namely, that analyzing the quality of displayed data includes analyzing at the receiver a component load, wherein a component is chosen from the set of a CPU, graphics card and texture-mapping engine. Because Pocock et al. shows a CPU and memory, and a graphics generator, and mapping commands using alph-numeric keys, the Examiner states that it would have been obvious to combine Pocock et al. with Goetz et al. Appellants traverse this combination of references as inappropriate.

To establish a *prima facie* case of obviousness, the Examiner must meet three criteria. First, there must be some motivation or suggestion, either in the references themselves, or in the knowledge generally available to one of ordinary skill in the art, to combine the references. Second, there must be a reasonable expectation of success, and finally, the prior art references must teach or suggest all the claim limitations. The Examiner bears the initial burden of providing some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found

the claimed invention to have been obvious in light of the teachings of the references." MPEP 2142.

As a fundamental matter, Goetz et al. disclose a system in a client-server context. The Abstract makes this clear and the substance of the disclosure focuses on how to stream multimedia data files from a server to a client. In contrast, Pocock et al. teaches a television system for the interactive distribution of selectable video presentations. They show a combination of a cable tv trunk line 28 connected to a user terminal 14 as well as a telephone connection 12 to the user terminal 14 to enable the user to receive video presentations. The technology associated with cable television broadcasts differs from the client/server networked communication disclosed in Goetz et al. Appellants submit that one of skill in the art would not be motivated to blend the teachings of Goetz et al. (client/server context) with Pocock et al. (cable tv context) given the differences in the technology to deliver content in each case.

If a proposed modification would render the prior art invention being modified unsatisfactory for its intended purposes, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). Further, if the proposed modification of the prior art would change the principle operation of the prior art invention being modified, then the teaching of the reference is not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). The principles outlined in both these cases are applicable here.

The Examiner states that Fig. 4, items 94 and 86 of Pocock et al. provide the video processor and CPU that could be combined with Goetz et al. to arrive at the invention of claims 5 and 18. However, such a blending would alter the operation of each reference such

that no motivation could exist to combine their teachings. FIG. 4 of Pocock et al. provides more detail regarding the digital video system 40 shown in FIG. 2. The digital video subsystem 40 is included as one of several subsystems that are part of the video subsystem 20 shown in FIG. 1. The presentation system 10 of FIG. 1 includes the video subsystem 20 as one of its components. The important point here is that the hardware cited by the Examiner to combine with Goetz et al. is part of the transmission system of data to be displayed (video presentation). The presentation system 10 receives instructions from the user (col. 3, lines 24 - 42). Based on those instructions, the presentation system 10 sends a video program to the user terminal 14 and tv for viewing. The Examiner combines these components with the client receiver shown in Goetz et al. Simply put, the cable tv transmitter memory and CPU components, programmed to transmit cable video signals to users, cannot be inserted into the client receiver disclosed in Goetz et al. without altering the principle of operation of one of Pocock et al. or Goetz et al.'s technology. Furthermore, forcing such a blending of technology would necessarily alter the function of operation of one of the references. For these reasons, Appellants submit that there cannot be the requisite motivation or suggestion to combine Goetz et al. with Pocock et al. to reject claims 5 and 18.

Furthermore, claim 5 depends from claim 1 and claim 18 depends from claim 14. Therefore, inasmuch as Goetz et al. fail to teach each limitation of these parent claims, Appellants submit that claims 5 and 18 should be allowed.

C. Rejection of Claims 8 - 9, 21 - 22, 31 - 32, 40 - 41 and 49 - 50 Under Section 103(a)

The Examiner rejected claims 8 - 9, 21 - 22, 31 - 32, 40 - 41 and 49 - 50 under Section 103 (a) over Goetz et al. in view of U.S. Patent No. 5,673,401 to Volk et al. ("Volk et al."). The Examiner's finding of a motivation or suggestion to combine of Goetz et al. and Volk et al. must be reversed for a similar reason to the combination of Goetz et al. with Pocock et al. Volk et al.'s disclosure is in the context of cable tv viewing. FIG. 4 illustrates a television remote control unit and beginning with the first sentence of the Background of the Invention, Volk et al. make clear that their disclosure is in the context of a cable tv distribution system.

Furthermore, as discussed above, blending the disclosures of Goetz et al. with Volk et al. would change the principles of operation such that there cannot exist a motivation to combine. The Examiner cites col. 5, lines 20 - 60 to assert that users can customer the control item via a user input device. However, this portion of Volk et al., as mentioned above, deals with communication between a subscriber's set-top terminal for cable tv. This technology differs from the client/server environment and packet bitstream format of the Internet, which is the context of Goetz et al. Similarly, the remaining sections cited by the Examiner (col. 18, lines 10 - 30; col. 28, line 64 to col. 29, line 14 and col. 33, lines 45 - 55) are each in the same cable tv context. Therefore, to combine Volk et al.'s cable tv technology with Goetz et al.'s client/server technology would require altering the fundamental nature of at least one of the references. Therefore, there is no motivation or suggestion to combine.

For the foregoing reasons, Appellants submit that these two references should not be combined and claims 8 - 9, 21 - 22, 31 - 32, 40 - 41 and 49 - 50 should be allowed.


Furthermore, each of these claims depends from an allowable claim as mentioned above. Therefore, for this additional reason, Appellants request a remand to the Examiner with instructions to allow these claims.

9. CONCLUSION

In view of the above, Appellants submit that all claims on appeal distinguish over the art and respectfully request that the Examiner's rejections of these claims be reversed. Appellants, therefore, respectfully move this Board to reverse the Examiner's decision rejecting claims 1-53.

Respectfully submitted,

Date: 10/28/03



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APPENDIX

(Brief of Appellants BASSO et al.
U.S. Patent Application Serial No. 09/113,747)

CLAIMS ON APPEAL

1. (Previously Amended) A computer-readable medium storing instructions adapted to be executed on a processor to:

- (a) display, at a receiver, received data;
- (b) analyze, at the receiver, the quality of the displayed data;
- (c) formulate, at the receiver and based on the analysis in step (b), a media-parameter suggestion for an encoder to alter the characteristics of data to be sent to the receiver; and
- (d) send, from the receiver, the formulated suggestion.

2. (Original) The computer-readable medium of claim 1, further storing instructions adapted to be executed on a processor to:

- (e) receive, at the receiver, a user preference to be used in the analysis in step (b).

3. (Original) The computer-readable medium of claim 2, wherein the instruction (a) to display data includes instructions adapted to be executed by a processor to display, at the receiver, audiovisual data.

4. (Original) The computer-readable medium of claim 2, wherein the instruction (b) to analyze the quality of the displayed data includes instructions adapted to be run on the processor to analyze, at the receiver, the system load.

5. (Original) The computer-readable medium of claim 2, wherein the instruction (b) to analyze the quality of the displayed data includes instructions adapted to be run on the processor to:

- (i) analyze, at the receiver, component load, wherein a component is chosen from the set comprising a central-processing unit, a graphics card, and a texture-mapping engine.

6. (Original) The computer-readable medium of claim 2, wherein the instruction (c) to formulate a media-parameter suggestion includes instructions adapted to be run on the processor to formulate media-parameter suggestions that include:

- (i) send timing information identifying the point in time where the data was collected; and

- (ii) send timing information identifying the point in time when the suggested action should be honored.

7. (Original) The computer-readable medium of claim 2, wherein the instruction (c) to formulate a media-parameter suggestion includes instructions adapted to be run on the processor to formulate media-parameter suggestions to:

- (i) alter the frame rate.

8. (Original) The computer- readable medium of claim 2, wherein the instruction (c) to formulate a media-parameter suggestion includes instructions adapted to be run on the processor to formulate media-parameter suggestions to:

- (i) alter the color depth.

9. (Original) The computer-readable medium of claim 2, wherein the instruction (c) to formulate a media-parameter suggestion includes instructions adapted to be run on the processor to formulate media-parameter suggestions to:

- (i) alter the window size.

10. (Original) The computer-readable medium of claim 2, wherein the instruction (c) to formulate a media-parameter suggestion includes instructions adapted to be run on the processor to formulate media-parameter suggestions to

- (i) alter audio channel characteristics.

11. (Original) The computer-readable medium of claim 2, wherein the instructions (c) to formulate a media-parameter suggestion includes instructions adapted to be run on the processor to formulate media-parameter suggestions to:

- (i) alter the graphics hardware load.

12. (Original) The computer-readable medium of claim 2, wherein the instructions (c) to formulate a media-parameter suggestion includes instructions adapted to be run on the processor to formulate media-parameter suggestions to:

- (i) alter the CPU load.

13. (Original) The computer-readable medium of claim 2, wherein the instruction (c) to formulate a media-parameter suggestion includes instructions adapted to be run on the processor to formulate media-parameter suggestions that include:

- (i) altering the RAM amount available.

14. (Previously Amended) A method of transmitting data from a sender to a receiver across a network comprising:

- (a) displaying, at the receiver, received data;
- (b) analyzing, at the receiver, the quality of the displayed data;
- (c) formulating, at the receiver and based on the analysis in step (b), a media-parameter suggestion for an encoder to alter the characteristics of data to be sent to the receiver; and
- (d) sending, from the receiver, the formulated suggestion to alter the quality of the received data.

15. (Original) The method of claim 14, further comprising:

- (e) receiving, at the receiver, a user preference to be used in the analysis in step (b).

16. (Original) The method of claim 15, wherein the displayed data is audiovisual data.

17. (Original) The method of claim 15 wherein said analyzing step (b) is based on system load.

18. (Original) The method of claim 15 wherein said analyzing step (b) is based on component load, where a component is chosen from the set comprising central-processing unit, graphics, card and texture mapping engine.

19. (Original) The method of claim 15 wherein the formulated suggestion includes:

- (i) timing information identifying the point in time where the data was collected;
and
- (ii) timing information identifying the point in time when the suggested action should be honored.

20. (Original) The method of claim 15, wherein the formulated suggestion includes a suggestion to:

- (i) alter the frame rate.

21. (Original) The method of claim 15, wherein the formulated suggestion includes a suggestion to:

- (i) alter the color depth.

22. (Original) The method of claim 15, wherein the formulated suggestion includes a suggestion to:

- (i) alter the window size.

23. (Original) The method of claim 15, wherein the formulated suggestion includes a suggestion to:

- (i) alter audio channel characteristics.

24. (Original) The method of claim 15, wherein the formulated suggestion includes a suggestion to:

- (i) alter the graphics hardware load.

25. (Original) The method of claim 15, wherein the formulated suggestion includes a suggestion to:

- (i) alter the CPU load.

26. (Original) The method of claim 15, wherein the formulated suggestion includes a suggestion to :

- (i) alter the RAM amount available.

27. (Previously Amended) A method for transmitting data across a network comprising:

- (a) transmitting data to a receiver;

(b) receiving from the receiver a suggestion to alter future transmitted data on the basis of a quality of data transmitted in (a);

(c) selecting, based on the received suggestion, an action to alter the data; and

(d) altering the future transmitted data.

28. (Original) The method of claim 27, wherein the data transmitted in step (a) includes audiovisual data.

29. (Original) The method of claim 27, wherein the received suggestion includes:

(i) timing information identifying the point in time where the data was collected;
and

(ii) timing information identifying the point in time when the suggested action should be honored.

30. (Original) The method of claim 27, wherein the received suggestion includes:

(i) altering the frame rate.

31. (Original) The method of claim 27, wherein the received suggestion includes:

(i) altering the color depth.

32. (Original) The method of claim 27, wherein the received suggestion includes:

(i) altering the window size.

33. (Original) The method of claim 27, wherein the received suggestion includes:

- (i) altering the audio channel characteristics.

34. (Original) The method of claim 27, wherein the received suggestion includes:

- (i) altering the graphics hardware load.

35. (Original) The method of claim 27, wherein the received suggestion includes:

- (i) altering the CPU load.

36. (Previously Amended) An apparatus for transmitting data from a sender to a receiver across a network comprising:

- (a) a processor;
- (b) a port coupled to said processor; and
- (c) a memory coupled to said processor and said port, storing instructions adapted

to be run on said processor to:

- i. display, at the receiver, received data;
- ii. analyze, at the receiver, the quality of the displayed data;
- iii. formulate, at the receiver and based on the analysis in (ii), a media-parameter suggestion for an encoder to alter the characteristics of data to be sent to the receiver; and
- iv. send, from the receiver, the formulated suggestion to alter the quality of the received data.

37. (Original). The apparatus in claim 36, wherein the memory further stores instructions adapted to be run on said processor to:

- (v) receive, at the receiver, a user preference to be used in the analysis in (ii).

38. (Original). The apparatus in claim 36, wherein the formulated suggestion includes timing information identifying when the data was collected, and timing information identifying when the suggested action should be honored.

39. (Original) The apparatus in claim 36, wherein the formulated suggestion includes a suggestion to later the frame rate.

40. (Original) The apparatus in claim 36, wherein the formulated suggestion includes a suggestion to later the color depth.

41. (Original) The apparatus in claim 36, wherein the formulated suggestion includes a suggestion to alter the window size.

42. (Original) The apparatus in claim 36, wherein the formulated suggestion includes a suggestion to alter the audio characteristics.

43. (Original) The apparatus in claim 36, wherein the formulated suggestion includes a suggestion to alter the hardware load.

44. (Original) The apparatus in claim 36, wherein the formulated suggestion includes a suggestion to alter the CPU load.

45. (Original). The apparatus in claim 36, wherein the formulated suggestion includes a suggestion to alter the RAM amount available.

46. (Previously Amended) An apparatus for transmitting data from a sender to a receiver to a receiver across a network comprising:

- (a) a processor;
- (b) a port coupled to said processor; and
- (c) a memory coupled to said processor and said port, storing instructions adapted to be run on said processor to:
 - (i) transmit data to a receiver;
 - (ii) receive, from the receiver, a suggestion to alter future transmitted data on the basis of a quality of data transmitted in (i);
 - (iii) select, based on the received suggestion, an action to alter the future transmitted data; and
 - (iv) alter the transmitted data.

47. (Original) The apparatus in claim 46, wherein the received suggestion includes timing information identifying when the data was collected, and timing information identifying when the suggested action should be honored.

48. (Original) The apparatus of claim 46, wherein the received suggestion includes altering the frame rate.

49. (Original) The apparatus of claim 46, wherein the received suggestion includes altering the color depth.

50. (Original) The apparatus of claim 46, wherein the received suggestion includes altering the window size.

51. (Original). The apparatus of claim 46, wherein the received suggestion includes altering audio channel characteristics.

52. (Original). The apparatus of claim 46, wherein the received suggestion includes altering the hardware load.

53. (Original). The apparatus of claim 46, wherein the received suggestion includes altering the CPU load.